



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XB283]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Service Pier Extension Project at Naval Base Kitsap Bangor, Washington

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of renewal incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued a renewal incidental harassment authorization (IHA) to the United States Navy (Navy) to incidentally harass marine mammals incidental to construction activities for the Service Pier Extension Project at Naval Base Kitsap Bangor in Silverdale, Washington.

DATES: This renewal IHA is valid from August 11, 2021 through July 15, 2022.

FOR FURTHER INFORMATION CONTACT: Kelsey Potlock, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the original application, renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at:

<https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor>. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The Marine Mammal Protection Act (MMPA) prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). Monitoring and reporting of such takings are also required. The meaning of key terms such as “take,” “harassment,” and “negligible impact” can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency’s regulations at 50 CFR 216.103.

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a renewal for this activity, and requested public comment on a potential renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time one-year renewal IHA following notice to the public providing an additional 15 days for public comments when

(1) up to another year of identical or nearly identical, or nearly identical, activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a renewal would allow for completion of the activities beyond that described in the “Dates” section of the initial IHA notice of issuance, provided all of the following conditions are met:

(1) A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA).

(2) The request for renewal must include the following:

- An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take);
- A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized; and

(3) Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed renewal. A description of

the renewal process may be found on our website at:

www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals.

History of Request

On June 28, 2018, NMFS published a notice of issuance of an IHA to the United States Navy (Navy) authorizing take of five species of marine mammals by Level A and Level B harassment incidental to the pile installation and removal activities (by impact pile driving and vibratory pile driving) for the Service Pier Extension (SPE) Project at Naval Base Kitsap Bangor in Silverdale, Washington (83 FR 30406). Species authorized for take included killer whales (*Orcinus orca*; transient stock only), harbor porpoise (*Phocoena phocoena vomerina*), California sea lions (*Zalophus californianus*), Steller sea lions (*Eumetopias jubatus monteriensis*), and harbor seals (*Phoca vitulina richardii*). The effective dates of that IHA were July 16, 2019 through July 15, 2020.

On February 4, 2019, the Navy informed NMFS that the project was being delayed by one full year. None of the work identified in the initial IHA (83 FR 30406; June 28, 2018) had occurred and no marine mammals had been taken during the effective dates of the original IHA, and the Navy submitted a formal request for reissuance of the initial IHA with new effective dates of July 16, 2020 through July 15, 2021 and no other changes. NMFS re-issued this IHA on July 3, 2019 (84 FR 31844).

On October 14, 2020, NMFS received a request from the Navy for a modification to the re-issued IHA due to an elevated harbor seal take rate. The Navy felt that without an increase in authorized take of harbor seals, they would be forced to repeatedly shutdown whenever animals entered into the specified Level A harassment zones. This would likely prolong the duration of in-water construction activities and add increased costs to the project. Following a 30-day public comment period, NMFS issued a modified IHA, including revisions to mitigation and increased authorized takes by Level A

harassment for harbor seals (85 FR 86538; December 30, 2020), and kept the same July 15, 2021 expiration date that was initially published in the reissuance (84 FR 31844; July 3, 2019).

On April 26, 2021, NMFS received an application for the renewal of that initial IHA. As described in the application for renewal, the activities for which incidental take is requested consist of a subset of activities that are covered by the initial authorization but will not be completed prior to its expiration. As required, the applicant also provided a preliminary monitoring report (available at

<https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor>) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted. The notice of the proposed renewal IHA was published on July 19, 2021 (86 FR 38025) for a 15-day public comment period in the **Federal Register**.

Description of the Specified Activities and Anticipated Impacts

The Navy plans to continue its construction activities at Naval Base Kitsap Bangor. The remaining construction activities involve the installation of 103 18-inch square concrete fender piles by impact pile driving over a 35-day period during a specified in-water work window (July 16 through January 15) due to the presence of Endangered Species Act (ESA)-listed juvenile salmonids are likely to be present in the area (February – July; USACE, 2015). The activities left for the Service Pier Extension Project are shown in Table 1. Please see the notice of proposed renewal IHA (86 FR 38025; July 19, 2021) for additional details.

Table 1-- Construction Activities Completed By the Expiration of the 2020 Modified IHA and Remaining

SPE	Pile	Pile	2018 and 2020 IHAs	Renewal IHA
-----	------	------	--------------------	-------------

Project Feature	Type	installation and/or extraction method	Total numbers of piles initially analyzed	Total number of piles completed²	Subset of piles remaining	Number of pile driving days for the 2021-2022 construction period
Pile removal from existing wave screen and pier	15-inch (38 cm) to 18-inch (45 cm) creosote-treated timber	Vibratory	36	22 (18-inch only)	0	0
Temporary Falsework	36-inch steel (30 cm)	Vibratory installation and removal with potential “proofing”	27	0	0	0
Small craft mooring and dolphins	24-inch steel (60 cm)	Vibratory with “proofing”	50	11	0	0
Pier and wave screen attachment	36-inch steel (90 cm)	Vibratory with “proofing”	203	176	0	0
Fender piles	18-in concrete (45 cm)	Impact	103	0	103	35
Total			419	209 ¹	103	35

1 – Some of these piles were installed and some were removed per the specific project activity. Some of the total piles were temporarily installed and subsequently removed after installation. A total of 209 piles were utilized in construction activities during 2020-2021, in which 187 piles were installed, 22 piles were removed, and 0 piles were installed temporarily and then subsequently removed.

2 – Per the Navy’s submitted Monitoring Report, not all piles for which take was originally authorized were installed or removed per the recommendations by the Navy’s project engineers.

The following documents are referenced in this notice and include important supporting information:

- Initial proposed 2018 IHA (83 FR 10689; March 12, 2018);
- Initial final 2018 IHA (83 FR 30406; June 28, 2018);
- Modified proposed 2020 IHA (85 FR 74989; November 24, 2020);
- Modified final 2020 IHA (85 FR 86538; December 30, 2021);
- Renewal proposed IHA (86 FR 38025; July 19, 2021);
- Appendix A and D of the original and renewal IHA applications (available

at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor>);

- The preliminary monitoring report included with the renewal IHA application (available at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor>);

- References cited (available at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor>); and

- Previous public comments received (available at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor>).

The anticipated impacts, which include both Level A and Level B harassment of marine mammals by impact pile driving, are identical to those analyzed and authorized in the initial 2018 IHA (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020). Similar to the last projects at Naval Base Kitsap Bangor, the species with the expected potential to be present during all or a portion of the in-water work window include the killer whale, the harbor porpoise, the California sea lion, the Steller sea lion, and the harbor seal. However, as the work for which take would be authorized under this renewal IHA represents a subset of the overall activities originally planned and discussed in the initial 2018 IHA (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020), NMFS plans to authorize only a subset of Level A and Level B harassment takes compared to those takes previously authorized under the modified 2020 IHA (85 FR 86538; December 30, 2020).

The anticipated impacts are identical to those described in the 2018 IHA (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020).

However, NMFS anticipates that only pinniped species (harbor seals, California sea lions,

Steller sea lions) are likely to be taken incidental to the concrete impact pile driving, a result from the analysis discussed in greater detail in the 2018 IHA (83 FR 30406; June 28, 2018). Because of this, no take will be authorized for killer whales or harbor porpoises during the concrete impact piling activities discussed in the Navy's 2021-2022 IHA application.

A detailed description of the construction activities for which authorization of take was requested may be found in the **Federal Register** notice of the proposed 2018 IHA (83 FR 10689; March 12, 2018) and the modified proposed 2020 IHA (85 FR 74989; November 24, 2020). The location, timing (*e.g.*, seasonality), and nature of the subset of construction activities planned under the renewal IHA are identical to those analyzed for concrete impact piling in the 2018 Notice (83 FR 30406; June 28, 2018) and subsequent 2020 modification Notice (85 FR 86538; December 30, 2020).

This renewal IHA is effective from August 11, 2021 until July 15, 2022.

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance, status, distribution, and hearing, may be found in the notices of the proposed and final notices for the 2018 (83 FR 10689; March 12, 2018 and 83 FR 30406; June 28, 2018) and the 2020 modified (85 FR 74989; November 24, 2020 and 85 FR 86538; December 30, 2020) IHAs. NMFS has reviewed the monitoring data from the 2020 modified IHA, recent Stock Assessment Reports (SARs), information on relevant Unusual Mortality Events (UMEs), and other scientific literature, and determined that neither this nor any new information affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the 2018 IHA.

The only changes from the 2018 IHA (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020) are a decrease in the abundance of United States stock California sea lions (from 296,750 in 2011 to 257,606 in 2014) and an increase in the stock abundance of Steller sea lions of the eastern United States stock (from 41,638 in 2015 to 43,201 in 2017) (Carretta *et al.*, 2018, Muto *et al.*, 2019, Muto *et al.*, 2020). This updated information does not change the findings or conclusions from the 2018 IHA (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020).

Potential Effects on Marine Mammals and their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is authorized here may be found in the notices of the proposed and final notices for the 2018 (83 FR 10689; March 12, 2018 and 83 FR 30406; June 28, 2018) and the 2020 modified (85 FR 74989; November 24, 2020 and 85 FR 86538; December 30, 2020) IHAs. NMFS has reviewed the monitoring data from the 2020 modified IHA, recent Stock Assessment Reports, information on relevant UMEs, other scientific literature, and determined that neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

A detailed description of the methods and inputs used to estimate take for the specified activity can be found in the proposed and final **Federal Register** notices for the 2018 (83 FR 10689; March 12, 2018 and 83 FR 30406; June 28, 2018) and the 2020 modified (85 FR 74989; November 24, 2020 and 85 FR 86538; December 30, 2020) IHAs. The information informing the take estimates remains applicable to this authorization, and is unchanged from the previously issued IHAs. As before, no serious injury or mortality is anticipated to result from the Navy's construction activities.

We assume, for purposes of analysis, that no take will occur for either cetacean

species (*i.e.*, killer whales and harbor porpoises) during the specified impact pile driving activities for the 103 concrete piles. This is because the isopleths for impact pile driving of concrete piles were described as fully monitorable (with maximum distances to behavioral thresholds of 46 m and 541 m, respectively, and maximum distance to injury thresholds being 14 m); therefore, no killer whale behavioral or injury takes were expected to occur. Harbor porpoise are able to be visually detected to a distance of about 200 m by experienced observers in conditions up to Beaufort 2 (Department of the Navy, 2017). Therefore, the concrete isopleths are able to be fully monitored (with maximum distance of 46 m), so no takes were calculated for the estimated 35 days of concrete fender pile installation. More information can be found under **Take Calculation and Estimation** in the 2018 proposed (83 FR 10689; March 12, 2018) and 2018 final (83 FR 30406; June 28, 2018) notices. Thus, only take is expected for pinniped species, which is shown below in Table 2.

Table 2-- Proposed Take of Marine Mammal Stocks and Percentage of Stock or Population for the Renewal IHA During the 2021-2022 Project Period

Species	Scientific name	Stock	Stock abundance	Authorized Level A harassment (percent of stock)	Authorized Level B harassment (percent of stock)
California sea lion	<i>Zalophus californianus</i>	United States	257,606	0 (0)	1,710 (0.7)
Steller sea lion	<i>Eumetopias jubatus monteriensis</i>	Eastern United States	43,201	0 (0)	110 (0.3)
Harbor seal	<i>Phoca vitulina richardii</i>	Hood Canal	1,088	280 (unknown) ¹	1,225 (unknown) ¹

1 – Because the stock information is not considered current, there are no minimum abundance estimates to use for calculation. The abundance estimate for this stock is greater than eight years old (1999) and is therefore not considered current. PBR is considered undetermined for this stock, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates, as these represent the best available information for use in this document.

The stocks taken (including the lack of take for the cetacean stocks during concrete impact pile driving), methods of take, and types of take remain unchanged from

what was described in the previously issued 2020 modified IHA. The take authorized for this action consists of a subset of the overall take previously authorized and discussed in greater detail in the final 2018 IHA (83 FR 30406; June 28, 2018) and final modified 2020 IHA (85 FR 86538; December 30, 2020).

Description of Mitigation, Monitoring and Reporting Measures

Mitigation Requirements

The required mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the **Federal Register** notice announcing the issuance of the modified 2020 IHA (85 FR 86538; December 30, 2020), and the discussion of the least practicable adverse impacts included in that document remains accurate. All mitigation, monitoring, and reporting measures in the modified 2020 IHA (85 FR 86538; December 30, 2020) are carried over in this renewal IHA and summarized here:

Timing Restrictions – To minimize the number of fish exposed to underwater noise and other construction disturbance, in-water work will occur during the in-water work window previously described in the proposed renewal (86 FR 38025; July 18, 2021) when ESA-listed salmonids are least likely to be present (July 16 to January 15; USACE, 2015).

All in-water construction activities will occur during daylight hours (sunrise to sunset) except from July 16 to September 15, when impact pile driving will only occur starting two hours after sunrise and ending two hours after sunset, to protect foraging marbled murrelets during the nesting season (April 15-September 23). Sunrise and sunset are to be determined based on National Oceanic and Atmospheric Administration data, which can be found at <http://www.srrb.noaa.gov/highlights/sunrise/sunrise.html>.

Soft-Start – The use of a soft-start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to

the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a 30-second waiting period, then two subsequent reduced energy strike sets. (The reduced energy of an individual hammer cannot be quantified because it varies by individual drivers. Also, the number of strikes will vary at reduced energy because raising the hammer at less than full power and then releasing it results in the hammer “bouncing” as it strikes the pile, resulting in multiple “strikes.”)

A soft-start procedure will be used for impact pile driving at the beginning of each day's in-water pile driving or any time impact pile driving has ceased for more than 30 minutes.

Establishment of Shutdown Zones and Disturbance Zones – To the extent possible, the Navy will record and report on any marine mammal occurrences, including behavioral disturbances, beyond 100 meters (m; 328 feet (ft)) for concrete pile installation. The Navy will monitor and record marine mammal observations within zones and extrapolate these values across the entirety of the Level B harassment zone as part of the final monitoring report.

The shutdown zones are based on the distances from the source predicted for each threshold level. Different functional hearing groups for pinnipeds were evaluated. The shutdown zones for phocids were based on the maximum calculated Level A harassment radius for pinnipeds during installation of concrete piles with impact techniques. These actions serve to protect marine mammals, allow for practical implementation of the Navy's marine mammal monitoring plan and reduce the risk of a take. The shutdown zone during any non-pile driving activity will always be a minimum of 10 m (33 ft) to prevent injury from physical interaction of marine mammals with construction equipment.

During all pile driving, the shutdown, Level A harassment, and Level B harassment zones as shown in Table 3 will be monitored out to the greatest extent possible with a focus on monitoring within 100 m for concrete pile installation.

Table 3-- Shutdown, Level A Harassment, and Level B Harassment Isopleths During Impact Driving of Concrete Piles for Pinnipeds

Marine Mammal Group	Level B Harassment Isopleth (meters)	Level A Harassment Isopleth (meters)	Shutdown Zone (meters)	Minimum monitoring zone for concrete piles
Harbor seal	46	19	35	100 meters ¹
Sea Lions	46	1	15	

1 – The Navy has noted in their renewal application that they will be monitoring a 100 meter radius from the project site, as practicable, in addition to the specified Level A and B harassment isopleths and the Shutdown Zone for each marine mammal group.

The isopleths delineating shutdown, Level A harassment, and Level B harassment zones during impact driving of all concrete piles are shown in Table 3. The shutdown, Level A harassment, and Level B harassment isopleths for concrete impact driving remain unchanged from the notice of the issuance of the initial 2018 IHA (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020). Note that the Shutdown Zone is larger than the Level A harassment isopleth for harbor seals and sea lions.

The Navy may perform hydroacoustic monitoring during activities discussed in this action. If hydroacoustic monitoring is performed, the radii of the disturbance zones may be adjusted if in-situ acoustic monitoring is conducted by the Navy to establish actual distances to the thresholds for a specific pile type and installation method. However, any proposed acoustical monitoring plan must be pre-approved by NMFS. The results of any acoustic monitoring plan must be reviewed and approved by NMFS before the radii of any disturbance zones may be revised.

Harbor seal-specific mitigation – As described in the proposed renewal (86 FR 38025; July 18, 2021), PSOs had reported up to eight individually identifiable harbor

seals that were frequenting the project site and believed to be habituated by varying degrees to in-water construction activities. Based on the monitoring report provided by the Navy with their renewal application, a ninth seal has been noted in the area; however this seal has not been noted as an individual seen “daily” and therefore does not necessitate any changes to the harbor seal-specific mitigation measures discussed below.

Even with a 35 m shutdown zone during impact driving, the Navy is still concerned that they would experience frequent work stoppages due to frequent visits by identifiable harbor seals. This could result in continued schedule delays and cost overruns and could potentially require an extra year of in-water construction activities. Given this information, the Navy has indicated that it is not practicable for them to shut down or delay pile driving activities every time a harbor seal is observed in a shutdown zone. Therefore, the Navy has proposed to apply identical measures to those in the modified IHA (85 FR 86538; December 30, 2020), in which shutdowns will be initiated for harbor seals when observed approaching or entering the Level A harassment zones as described above, except when one or more of the three identifiable harbor seals identified as daily visitors approaches or enters an established shutdown zone. In such cases, a single take by Level A harassment shall be recorded for each individual seal for the entire day and operations will be allowed to continue without interruption; although the Navy must still shut down for these harbor seals if they occur within 10 m of the pile driving site. The behavior of these three daily visitors will be monitored and recorded as well as the duration of time spent within the harassment zones. This information will be recorded individually for each of the three seals. If any other seals, including any of the other five seals identified as frequent visitors, approaches or enters into a Level A harassment zone, shutdown must occur.

Monitoring Requirements

Visual monitoring – PSOs will be positioned at the best practicable vantage points, taking into consideration security, safety, and space limitations. Each PSO location will have a minimum of one dedicated PSO (not including boat operators). There will be 3-5 PSOs working depending on the location, site accessibility and line of sight for adequate coverage. Additional standards required for visual monitoring include:

- (a) Independent observers (*i.e.*, not construction personal) are required;
- (b) At least one observer must have prior experience working as an observer;
- (c) Other observers may substitute education (degree in biological science or related field) or training for experience; and,
- (d) Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer.

Monitoring will be conducted by qualified observers, who will monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Qualified observers are trained biologists, with the following minimum qualifications:

- (a) Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
- (b) Advanced education in biological science or related field (undergraduate degree or higher required);
- (c) Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);
- (d) Experience or training in the field identification of marine mammals, including the identification of behaviors;
- (e) Sufficient training, orientation, or experience with the construction

operation to provide for personal safety during observations;

(f) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

(g) Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

PSOs will survey the disturbance zone 15 minutes prior to initiation of pile driving through 30 minutes after completion of pile driving to ensure there are no marine mammals present. In case of reduced visibility due to weather or sea state, the PSOs must be able to see the shutdown zones or pile driving will not be initiated until visibility in these zones improves to acceptable levels. MMO Record forms (Appendix A of the original 2018 application; see NMFS's website) will be used to document observations. Survey boats engaged in marine mammal monitoring will maintain speeds equal to or less than 10 knots.

PSOs will use binoculars and the naked eye to search continuously for marine mammals and will have a means to communicate with each other to discuss relevant marine mammal information (*e.g.*, animal sighted but submerged with direction of last sighting). PSOs will have the ability to correctly measure or estimate the animals distance to the pile driving equipment such that records of any takes are accurate relevant to the pile size and type.

Shutdown shall occur if a species for which authorization has not been granted or for which the authorized numbers of takes have been met. The Navy shall then contact NMFS within 24 hours.

If marine mammal(s) are present within or approaching a shutdown zone prior to pile driving, the start of these activities will be delayed until the animal(s) have left the zone voluntarily and have been visually confirmed beyond the shutdown zone, or 15 minutes has elapsed without re-detection of the animal.

If animal is observed within or entering the Level B harassment zone during pile driving, a take would be recorded and behaviors documented. However, that pile segment would be completed without cessation, unless the animal approaches or enters the Shutdown Zone, at which point all pile driving activities will be halted. The PSOs shall immediately radio to alert the monitoring coordinator/construction contractor. This action will require an immediate “all-stop” on pile operations. Once a shutdown has been initiated, pile driving will be delayed until the animal has voluntarily left the Shutdown Zone and has been visually confirmed beyond the Shutdown Zone, or 15 minutes have passed without re-detection of the animal (*i.e.*, the zone is deemed clear of marine mammals).

All marine mammals observed within the disturbance zones during pile driving activities will be recorded by PSOs. Additionally, all shutdowns shall be recorded.

In the unanticipated event that: (1) The specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury, serious injury or mortality; (2) an injured or dead animal is discovered and cause of death is known; or (3) an injured or dead animal is discovered and cause of death is not related to the project activities, the Navy will follow the protocols described in the Section 3 of Marine Mammal Monitoring Report (Appendix D of the original 2018 application).

Reporting Requirements

PSOs must record specific information as described in the **Federal Register** notice of the issuance of the initial IHA (83 FR 30406; June 28, 2018) and the modified IHA (85 FR 86538; December 30, 2020). Within 90 days after completion of pile driving activities, the Navy must provide NMFS with a monitoring report which includes summaries of recorded takes and estimates of the number of marine mammals that may have been harassed. If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

In the unanticipated event that: (1) The specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA, such as an injury, serious injury or mortality; (2) an injured or dead animal is discovered and cause of death is known; or (3) an injured or dead animal is discovered and cause of death is not related to the project activities, the Navy will follow the protocols described in the Section 3 of Marine Mammal Monitoring Report (Appendix D of the IHA application).

Comments and Responses

A notice of NMFS' proposal to issue a renewal IHA to the Navy was published in the **Federal Register** on July 19, 2021 (86 FR 38025). That notice described and referenced descriptions of the Navy's activities, the marine mammal species that may be affected by the activities, the anticipated effects on marine mammals and their habitat, estimated amount and manner of take, and proposed mitigation, monitoring and reporting measures. NMFS received no public comments.

Determinations

The activities planned by the Navy are identical to a subset of those analyzed in the 2018 IHA (83 FR 30406; June 28, 2018) and discussed in the modified 2020 IHA (85 FR 86538; December 30, 2020), as are the method of taking and the effects of the action.

The potential effects of the Navy's activities are limited to Level A harassment of one species (harbor seals) and Level B harassment in the form of behavioral disturbance for three species (California sea lions, Steller sea lions, and harbor seals). As the activities described herein represent a subset, the take that was analyzed and described in the proposed renewal (86 FR 38025; July 18, 2021) is relatively smaller than authorized previously in the overall projects described in the modified 2020 IHA (85 FR 86538; December 30, 2020). In analyzing the effects of the activities in the 2018 IHA (83 FR 30406; June 28, 2018) and the modified 2020 IHA (85 FR 86538; December 30, 2020), NMFS determined that the Navy's activities would have a negligible impact on the affected species or stocks and the takes would be of small numbers. The mitigation measures and monitoring and reporting requirements as described above are identical to the 2018 IHA (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020).

NMFS has concluded that there is no new information suggesting that our analysis or findings should change from those reached for the 2020 modified IHA. This includes consideration of the estimated abundance of the stocks for Steller sea lions (eastern United States stock) increasing slightly and the estimated abundance for the stock of California sea lions (United States stock) decreasing slightly. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) the Navy's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of

marine mammals are implicated by this action; and (5) appropriate monitoring and reporting requirements are included.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. No incidental take of ESA-listed marine mammal species is expected to result from these activities, and none would be authorized. Therefore, NMFS has determined that consultation under section 7 of the ESA is not required for this action.

National Environmental Policy Act (NEPA)

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment. This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHA with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which NMFS has not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Renewal

NMFS has issued a renewal IHA to the Navy for the take of marine mammals incidental to conduct the Service Pier Extension Project at Naval Base Kitsap Bangor in Silverdale, Washington from August 11, 2021 through July 15, 2022.

Dated: August 11, 2021.

Catherine Marzin,

Acting Director, Office of Protected Resources,

National Marine Fisheries Service.

[FR Doc. 2021-17525 Filed: 8/16/2021 8:45 am; Publication Date: 8/17/2021]